

5b 3/13/1042/FP – Residential development comprising 113 flats with associated car parking, landscaping and related work at Land at Crane Mead, Ware, SG12 9PT for Marks Mill LLP

Date of Receipt: 19.07.2013

Type: Full – Major

Parish: WARE

Ward: WARE – CHADWELL

RECOMMENDATION:

That planning permission be **REFUSED** for the following reasons:

1. The site is identified in the East Hertfordshire Local Plan as primarily reserved for employment use. The proposal would result in the loss of valuable employment land to the detriment of the economic wellbeing of the District and the Local Planning Authority does not consider that there is no reasonable prospect of the site being used for its designated employment use. The proposed residential use is not therefore justified and would be contrary to policies EDE1, EDE2 and WA7 of the East Herts Local Plan Second Review April 2007 and national planning policy guidance contained in the National Planning Policy Framework.
2. The proposed development fails to make adequate provision for affordable housing in accordance with policies HSG3 and HSG4 of the East Herts Local Plan Second Review April 2007 and national planning policies contained within the National Planning Policy Framework.
3. The design and layout of the proposed development on the Starsgate site provides for poor amenity and outlook for units closest to the Railway Line and fails to take the opportunity to improve the way the area works by completing the landscaped pedestrian / cyclist route between Crane Mead , The River Lee and Ware Station. The proposal is in these respects poorly designed, contrary to policy ENV1 of the East Herts Local Plan and guidance in the National Planning Policy Framework.
4. The Local Planning Authority is not satisfied, from the information submitted by the applicant, that the development makes adequate provision for financial contributions to mitigate the impact of the development. It would therefore be contrary to Policy IMP1 of the East Herts Local Plan Second Review April 2007.

Summary of Reasons for Decision

In accordance with the Town and Country Planning (Development

3/13/1042/FP

Management Procedure) (England) Order 2012 (as amended) East Herts Council has considered, in a positive and proactive manner, whether the planning objections to this proposal could be satisfactorily resolved within the statutory period for determining the application. However, for the reasons set out in this decision notice, the proposal is not considered to achieve an acceptable and sustainable development in accordance with the Development Plan and the National Planning Policy Framework.

_____ (104213FP.TA)

1.0 Background:

- 1.1 The application site is shown on the attached OS extract. It is 0.86ha in area and is formed of two distinct sites that straddle Crane Mead comprising Swains Mill to the north and Starsgate, to the south. Swains Mill (0.40ha) is bounded by Wickhams Wharf to the west, the River Lea to the north, Mill Studio and the Magog unit to the east and Crane Mead to the south. Starsgate (0.46ha) is bounded by Viaduct Road to the west, Crane Mead to the north, Crane Mead Business Park to the east and the railway line to the south. Historically, Crane Mead has been industrial in nature, taking advantage of its proximity to the railway line. However, within the last 20 years, the area has been redeveloped to provide a mix of uses, including high-density housing.
- 1.2 The Swains Mill site comprises an industrial building with a footprint covering the majority of the plot. The Starsgate site was historically railway land but now comprises land used for car parking and a hand car wash currently operates from part of the site.
- 1.3 The application proposes the development of 113 open market flats comprising 45 x 1 bed, 47 x 2 bed and 21 x 3 bed. The units are split across 6 blocks – blocks 1, 2 and 3 on the Starsgate site and blocks 4, 5 and 6 on the Swains Mill site. The scale of the blocks would vary - blocks 1, 2, 4 and 5 are proposed at 4.5 storeys and blocks 3 and 6 at 3.5 storeys. The main vehicular access to Crane Mead from Viaduct Road and the vehicular entry point to the Starsgate site remain unchanged. It is proposed to slightly relocate the vehicular entrance to Swains Mill. In total, 114 car parking spaces are proposed, 56 on Swains Mill and 58 on Starsgate. Cycle and refuse storage is also provided.
- 1.4 Public amenity space is provided across the site, including a large area of public green space to the west side of the Starsgate site. It is proposed to provide a new pedestrian link across part of the Starsgate site leading through the underpass under Viaduct Road along to the

3/13/1042/FP

station. A dedicated footpath is also proposed along the eastern flank of the Swains Mill site to provide access to the towpath along the River Lea.

2.0 Site History:

2.1 The Council's planning records indicate that the Swains Mill site has been occupied by light industrial units within the compound of the existing building on the site for some time. The large, pre fabricated building dates back to the 1950s. Previous applications on this part of the site include the following:

- 3/93/1692/ZA – Food Superstore, Non Food Retail Units, Petrol Filling Station and B1 Development Together With Car Parking Access and Highway Improvements. **Refused by Secretary of State (11 Jan 1995).**
- 3/85/0293/FP – Erection of Covered Storage Units. **Approved with Conditions (11 April 1985).**

2.2 In refusing the proposed redevelopment of the site in 1995, the Inspector objected primarily to the loss of employment land and the impact of the scheme on the vitality and viability of the town centre. Since this time, the wider Crane Mead area has been redeveloped for enhanced B1 businesses including the Crane Mead Business Park and for residential use, providing over 200 dwellings under the 1998 Crane Mead Development Brief.

2.3 In 2009, there was expressed intent made to the Council to develop the Swains Mill and Starsgate site to provide a major retail store but, following the Council granting consent for a retail store at the Cintel site in Ware, no application was ever made.

2.4 The Starsgate site itself is undeveloped except for the purposes of car parking and a hand car wash facility. Previous planning applications include the following:

- 3/13/0265/AD – 4no non-illuminated signs to advertise car park and car washing facility. **Split decision (18 April 2013).**
- 3/13/0264/FP – Use of land for car parking and car washing including retention of canopy and cabin. **Approved with Conditions (19 April 2013).**

3/13/1042/FP

- 3/02/1020/FL – Temporary commuter parking facility. **Approved with Conditions (15 April 2003).**

3.0 Consultation Responses

- 3.1 County Highways do not wish to restrict the grant of permission subject to conditions and the applicant entering into a Section 106 agreement to secure contributions towards sustainable transport measures.
- 3.2 They comment that in accordance with the National Planning Policy Framework the development should be located in or near to local service centres served by public transport and with good provision for access by walking and cycling. In this regard they comment that there are bus stops within 100m and 400m walking distance from the site and, being close to Ware town centre the site is well served by various buses. Ware railway station is within 300m walk and the national cycle route follows the towpath of the River Lee. The proximity of the proposed development in relation to Ware town centre would support the view that the development site is considered to be in a reasonably sustainable location.
- 3.3 Surrounding local roads and junctions have a good road safety record and capacity analysis for the Viaduct Road/Crane Mead junction shows the junction will operate well within the capacity for the development traffic.
- 3.4 The County Historic Environment Unit advise that the development is likely to have an impact upon heritage assets of archaeological and historic interest and recommend that a condition is included to secure the implementation of a programme of archaeological work.
- 3.5 The Conservation Officer has recommended that permission be granted.
- 3.6 The significance of the site is its historic relationship with the River Lea and the railway line, elements which have defined the built form which includes the warehouses and maltings associated with Ware's industrial past. The siting and location of the development falls within an area of industrial character, and this defines the form of the development. The scale and mass of the buildings is typical of the immediate area whilst the design and use of materials is reflective of the surrounding industrial units. The orientation of the units allows for parking and open space. Overall, the development would have little or no impact on the historic or architectural character of the adjacent Conservation Area.

3/13/1042/FP

- 3.7 English Heritage comment that the application should be determined in accordance with national and local policy guidance and on the basis of specialist conservation advice.
- 3.8 The Council's Planning Policy Team has recommended that the application be refused. They comment that evidence indicates that the Crane Mead Employment Area is still performing well as an employment area. As an 'Amber' site, there are elements of the site that could use improvement but unless alternative provision is made, the site should be retained for employment purposes. Evidence also indicates the need for more employment land and therefore to lose more of Crane Mead will prejudice the ability of existing businesses to continue. The site is in a prominent, visible position and therefore the Council should seek to improve the employment offer of this land to support the Business Park and provide valuable local employment opportunities.
- 3.9 The Council's Environmental Health unit has advised that any permission granted should include conditions requiring noise control measures, construction hours of working, site reclamation and soil decontamination and piling works. They comment that the Environmental Noise Assessment Report demonstrates that acoustic measures are necessary to some of the dwellings to ensure the internal noise climate remains within acceptable parameters in respect of road traffic noise generated from Viaduct Road.
- 3.10 The Council's Landscape Officer has provided a recommendation of refusal. The building footprints on the Starsgate site run close up to Crane Mead – insufficient to provide a roadside verge, footpath and trees and is symptomatic of overdevelopment. The parking courtyards for the Swains Mill site are rather bland and featureless and hard landscape materials will need to be high quality. If approved, hard and soft landscaping conditions should be applied.
- 3.11 Thames Water raise no objection to the sewerage infrastructure and comment that proper provision of surface water drainage is the responsibility of the developer. There are a number of existing public sewers crossing the site and it may be advantageous for the developer to rationalise some of these sewers to achieve an improved site layout.
- 3.12 Affinity Water comment that the site is located within the groundwater Source Protection Zone of Musley Lane Pumping Station.
- 3.13 The Canal and River Trust express support that the river frontage is left open and request a condition to ensure that no tree planting is

3/13/1042/FP

permitted within 5.0m of the waterway edge. The proposal will result in additional usage of the stretch of towpath across the site frontage. This will be facilitated by the provision of a public route along the edge of the (Swains Mill) site to create a link from Crane Mead. The quality of the towpath is poor and the Canal and River Trust request a financial contribution of £33,900 towards the improvement of the towpath to accommodate the additional usage.

- 3.14 Network Rail raise no objection to the application subject to a condition requiring the provision of a trespass proof fence adjacent to the railway line boundary. They also recommend the provision of a barrier or high kerbing to prevent vehicles rolling onto the railway line.
- 3.15 Hertfordshire Biological Records Centre agree with the conclusions recorded in the ecological assessment and recommend consent subject to conditions including controlling site clearance and lighting provision and requiring the provision of site landscaping and opportunities to enhance biodiversity.
- 3.16 Natural England comment that the proposal is unlikely to have a significant effect on the interest features for which the Lee Valley Ramsar and SPA has been classified.
- 3.17 The Environment Agency originally objected to the application, citing the increase in built form in an area of high risk of flooding and a lack of viable floodplain compensation areas. Following the submission of additional information, including compensatory flood storage areas, the Environment Agency have removed their objection and are satisfied that the development can proceed subject to conditions.
- 3.18 The Council's Engineers state that the development appears to show a reduction in the amount of impermeable areas being created with a consequent decrease in the risk of associated flooding to the surrounding areas. However, the sustainable drainage principles adopted are overly reliant on surface water drainage and permeable paving and thus should not be considered sustainable construction. Recommend the use of above ground techniques such as swales and green roofs.
- 3.19 The Council's Housing Development Manager states that the scheme should provide up to 40% affordable housing on the site with a tenure split of 75% rent and 25% shared ownership.
- 3.20 The District Valuation Service has been asked to provide an independent review of the applicant's Viability Assessment. This is

3/13/1042/FP

required because the developer considers that the provision of any affordable housing would make the scheme unviable. The DVS Report states that the scheme would be unviable if the applicant were asked to provide up to 40% affordable housing in line with Council policy. However, based on their calculations and evidence they consider that the development can provide a minimum of 16% affordable housing, or 18 units in total.

3.21 The Planning Obligations Unit at Herts County Council request fire hydrant provision and the following financial contributions:

- £71,769 towards Primary Education
- £58,200 towards Secondary Education
- £16,275 towards Nursery Provision
- £4,908 towards Childcare
- £1,607 towards Youth facilities
- £12,972 towards Library Services.

4.0 Town Council Representations:

4.1 Ware Town Council raise no objection but recommend that a play area is provided and register a concern about traffic as the existing junction is considered inadequate.

5.0 Other Representations:

5.1 The application was publicised by way of neighbour notification, site notice and press notice. Four (4) letters of objection have been received, including one representing the Swains Mill business community and one from the Ware Society. The letters raise the following objections which may be summarised as follows:

- District does not have an oversupply of employment land;
- Crane Mead not 'medium quality' employment land;
- Swains Mill occupied by 14 businesses;
- Loss of approximately 80 jobs;
- Swains Mill provides occupants with a safe, clean and economical work environment;
- Increase in heavy duty traffic;
- Extra traffic will cause problems;
- Increase in noise;
- Insufficient cycle storage;
- Lack of access to the towpath.
- Loss of privacy

3/13/1042/FP

- Overdevelopment
- Loss of the car park

6.0 Policy:

6.1 The relevant 'saved' Local Plan policies in this application include the following:

SD2	Settlement Hierarchy
WA7	Crane Mead
HSG3	Affordable Housing
HSG4	Affordable Housing Criteria
HSG6	Lifetime Homes
TR1	Traffic Reduction in New Developments
TR2	Access to New Developments
TR3	Transport Assessments
TR7	Car Parking Standards
TR12	Cycle Routes – New Developments
TR14	Cycling - Facilities Provision (Residential)
EDE1	Employment Areas
EDE2	Loss of Employment Sites
ENV1	Design and Environmental Quality
ENV2	Landscaping
ENV3	Planning Out Crime – New Development
ENV16	Protected Species
ENV18	Water Environment
ENV19	Development in Areas Liable to Flood
ENV20	Groundwater Protection
ENV21	Surface Water Drainage
ENV25	Noise Sensitive Developments
BH1	Archaeology and New Development
BH2	Archaeology Evaluations and Assessments
BH3	Archaeological Conditions and Agreements
LRC3	Recreational Requirements in New Residential Developments
LRC9	Public Rights Of Way
IMP1	Planning Conditions and Obligations

6.2 The National Planning Policy Framework (NPPF) in its entirety is of relevance in the determination of the application. However, section 1 'Building a strong, competitive economy' and section 6 'Delivering a wide choice of high quality homes' are of particular relevance.

7.0 Considerations:

7.1 The main considerations in the determination of the planning application relate to:

- Planning Policy Context
- The loss of Employment Land;
- Design, Scale and Layout
- Affordable Housing
- Flood Risk;
- Parking and Access;
- Neighbour Amenity;
- Financial Considerations; and
- Other matters

Planning Policy context

7.2 The site is located in a sustainable location on the edge of the town centre of Ware wherein residential development would ordinarily be acceptable in principle. However, the site is a designated Employment Area within the Local Plan. Policy EDE1 of the Local Plan reserves such areas for industry, comprising Use Classes B1 (Business), B2 (General Industrial) and, where well related to the transport network, Class B8 (Storage and Distribution). Policy WA7 of the Local Plan specifies that Crane Mead will be primarily reserved for industry comprising B1. Policy EDE2 states that development which would cause the loss of existing employment sites will only be permitted where the retention of the site for employment purposes has been fully explored without success.

7.3 However, the proposal for major housing development should also be considered in the context of the Council's current lack of a 5 year housing supply. One of the benefits of the proposal is that redevelopment of this previously developed site would provide 113 units and make a meaningful contribution to the Council's housing supply shortfall. This is an important consideration. In policy terms, the shortfall in housing supply engages paragraph 14 of the National Planning Policy Framework (NPPF), which states that, for decision taking, this means 'granting (planning) permission unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework as a whole.'

7.4 The weight that can be attached to Local Plan policies that seek to

protect employment land is dependent on their degree of consistency with policies in the NPPF. The Local Plan and the NPPF share a common goal – the delivery of sustainable development - of which the NPPF identifies three dimensions; economic, social and environmental. As part of its economic role, the NPPF requires the planning system, at paragraph 7, to ensure that ‘sufficient land of the right type is available in the right places and at the right time to support growth and innovation.’

- 7.5 Paragraph 22 of the NPPF states that ‘planning policies should avoid the long-term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. Land allocations should be regularly reviewed. Where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable communities.’
- 7.6 Accordingly, whilst Officers consider that there is a high degree of consistency between Local Plan Policies and those contained within the NPPF with regard to the provision and retention of employment land, consideration should be given to the viability of the employment land in question and to the other material planning considerations relevant to this particular application.

The loss of employment land

- 7.7 Crane Mead is long established as an industrial area. However, a 1998 Planning Brief identified part of the site as suitable for large-scale redevelopment to provide housing and employment uses. Mixed-use development duly followed including the residential Dixons Court and the Crane Mead Business Centre. Following this, the current 2007 Local Plan considered it appropriate to identify the remaining areas, including Swains Mill, as protected employment areas.
- 7.8 The applicant’s Planning Statement provides a Review of Employment Land. In reviewing the Council’s evidence base, it concludes that:
- Ware is generally an unattractive location for businesses to locate, given the more desirable surrounding settlements with better connections to the strategic transport network;
 - The District has an oversupply of employment land/premises;
 - The vast majority of Ware’s employment land/premises supply is good quality;

3/13/1042/FP

- Crane Mead is, at best, a medium quality employment location;
- Instead of improving poor quality employment land stock in Ware, delivering good quality and more strategically accessible employment sites on the outskirts of Ware will more successfully attract long-term investment.

- 7.9 The evidence base on which the applicant seeks to rely predominantly includes the Council's 2008 Employment Land Study completed by Halcrow and the 2012 DTZ Report providing Strategic Economic Development Advice and Employment Forecasts for East Hertfordshire. The 2008 Study had the primary objective of assessing the supply and demand for employment land and premises in East Herts over the period to 2021. The Study also assessed the quality of the district's employment sites based on a 'fit for purpose basis' grading them Green, Amber or Red as appropriate.
- 7.10 Crane Mead is listed as an 'Amber' site in the 2008 Study and this classification was maintained in the Council's 2013 Review entitled 'East Herts Employment Land Review Update 2013'. The applicant has drawn on this classification in concluding that Crane Mead is at best of medium quality as an employment location and refers specifically to p74 of the Study which states 'the area's low level of visibility and access points means that the overall market perception is low'. It should be noted however that the 2008 Study assessed the Crane Mead and Marsh Lane employment areas together and was more critical of the quality of the Marsh Lane area, which is less visible lying to the south of the railway. It is inappropriate therefore to apply this statement to either the Swains Mill or Starsgate sites, both of which are in fact highly visible and easily accessible from Viaduct Road and by public transport. This point was advanced when submissions were made previously for a mixed use retail scheme. The 2013 Review found the Crane Mead site specifically to be marketable, flexible and in a good position with low vacancy rates.
- 7.11 The 2008 Study also states that an Amber classification does not indicate sites should be considered for release - this is reserved for Red sites. Instead Amber sites are where 'employment uses remain viable but intervention in the future may be required to retain employment uses' (pg59). Moreover, the Study states that Employment Land Policy should safeguard Amber sites until it can be demonstrated that (i) they are no longer viable employment areas and (ii) their release will not lead to short term market imbalance (i.e.) under supply of land.
- 7.12 The applicant contends that there is no reasonable prospect of the site being redeveloped for employment purposes. With regard to the

viability of the site for employment use, the test at paragraph 22 of the NPPF is not whether 'redevelopment' is feasible but whether there is a reasonable prospect of the site being used for its allocated employment use. In this regard, whilst the Starsgate site is only being temporarily used as a hand car wash, the Swains Mill building currently provides over 2000sq m of employment floorspace. The Planning Statement submitted indicates that only a small proportion of this building is occupied. However, a site visit has revealed that the vast majority of the building is actually in active use and many of the tenants are long established. The businesses operating from the building include a car servicing and MOT centre, small manufacturing businesses, small-scale storage and distribution companies and office headquarters. Indeed, the Crane Mead site as a whole is generally performing well. At the time of the site visit the Magog building continues to house a successful engineering company employing 16 people and the Mill Studio (a more upmarket employment offering) was 100% occupied all for B1 Office use. The Business Park is also almost fully utilized.

- 7.13 The applicant refers to the age and general inadequacy of the Swains Mill building as being reasons to support the loss of employment provision. However, this view is not shared by Officers or the tenants themselves. Whilst the building may not be up to modern standards, it is physically sound and provides functional, adaptable and affordable space for a variety of different occupiers. Current employment levels for the building as a whole are not provided, but Officers note that the Swains Mill Business Community estimate the loss of approximately 80 jobs should the businesses be forced to leave.
- 7.14 The applicant has stated that short term and low rental agreements with existing occupiers mean that income is 'meagre and unreliable' and therefore it is not viable to maintain the Swains Mill building. However, the application is not supported by any evidence to quantify this. Existing occupiers have indicated to Officers that they would readily agree to longer tenancy agreements if they were offered. Furthermore, the applicant's own viability assessment carried out to determine what level of affordable housing can be provided indicates the value of the existing employment use (for the whole site including Starsgate) to be higher than the residual value based on 113 private for sale units. This is based on very reasonable rental rates of £5.30 per sq ft for individual units although includes an uplift of 20% to incentivize the sale of the land.
- 7.15 Perhaps most importantly with regard to whether there is a reasonable prospect of the site being redeveloped for employment purposes, the application does not include any marketing evidence. This may have

indicated the level of interest in the current market for investing in the site to provide employment use. Officers acknowledge that the Starsgate site is currently under utilized. However, in recent years Officers have dealt in some detail at pre application stage with interest in the wider site (including the adjacent Mill Studio and Magog building) to provide a mixed-use retail/industrial offering which, whilst not in strict accordance with the allocated use of the site, would nevertheless have provided a significant amount of employment.

- 7.16 Officers do acknowledge that East Herts towns, with the exception of Bishops Stortford, are not considered by the market to be prime commercial property locations, despite Hertford and Ware having good rail links to London. However, both the 2008 Employment Land Study and the 2013 Review concluded that the Crane Mead site should be retained and that the site represented an opportunity for an improved employment offering - the 2013 review encourages B1 development. Furthermore, the evidence base suggests that East Herts towns fulfill more of a local rather than regional need. It is also reasonable to assume that the small-scale businesses currently occupying Swains Mill benefit from being close to the town centre because it is appealing for workers and helps with employee recruitment and retention – a factor acknowledged in the DTZ study. Furthermore, as mentioned previously, the site functions well and is highly visible with good accessibility and parking. Officers therefore dispute the applicant's suggestion that the site's strategic disadvantages should be used to justify its loss and note that this is at odds with the Employment Land Review 2013 and DTZ's 2012 Report on Strategic Economic Development Advice for East Hertfordshire – both of which outline the need in Hertford and Ware to rejuvenate and adapt existing employment estates - like, for example, Crane Mead.
- 7.17 Turning more specifically to the issue of market imbalance, the applicant identifies that a high proportion of Ware's employment land is high quality (Green) and suggests Ware has an abundance of high quality offerings. However, the reason for this is principally because a large proportion of Ware's employment land (19ha out of 25ha in total) is taken up by the GSK site, which is by far the largest employment cluster in the district, owned by a single employer and unlikely to be available to the wider property market. The 2008 Study also reveals that whilst Ware has a high proportion of Green sites, Hertford has a considerable shortage of Green sites in comparison - thus levelling up the balance.
- 7.18 Ware actually has fewer employment sites overall than either Hertford or Bishops Stortford and there have also been significant losses in

recent years. The mixed-use development granted at the Widbury Hill site on Star Street at appeal equated to a loss of 1.6ha, or approximately 6% of Ware's employment land. The approval of an ASDA foodstore at the Watton Business Centre has, whilst retaining some employment, reduced the amount of land available for B1, B2 or B8 use still further.

- 7.19 As such, rather than there being an oversupply of employment land, the Council's Policy Team indicates there is a need for more employment land, particularly given the Council's emerging development strategy to plan for the upper end of a housing target range of between 10,000 and 17,000 dwellings. The 2008 Employment Land Study confirms a need to deliver additional employment land going forward, identifying that a minimum of 2-5ha will be required to meet employment forecasts up to 2021. Assuming Red employment land is lost, 7-10ha will need to be provided. The 2013 Review also reveals that the District is faced with a scarcity of potential new employment locations overall with opportunities considerably more restricted in Hertford and Ware. This supports the conclusions of the DTZ Report, which also stresses the need to retain and where necessary rejuvenate existing employment sites in Ware and Hertford especially.
- 7.20 Officers therefore consider that it has not been demonstrated that the site is not viable for employment use or that there is no reasonable prospect of the site being used, in whole or in part, for employment purposes. Furthermore, the loss of both the existing employment use on the site at Swains Mill and the loss of the land designated for employment use would have a significant adverse impact on the supply of employment land in the district. Accordingly, the application is contrary to relevant employment policies in the Local Plan and does not meet the tests of Paragraph 22 of the NPPF.

Design, Scale and Layout

- 7.19 A high standard of design is expected from all development proposals (policy ENV1), and this approach is reflected in the NPPF which places great importance on the quality of design. Policy ENV1 requires that development be compatible with the structure and layout of the surrounding area, complement the existing pattern of street blocks and relate well to the massing and height of adjacent buildings and the surrounding townscape. Policy ENV2 expects proposals to retain and enhance existing landscape features.
- 7.20 Swains Mill is an industrial building of utilitarian character. The Starsgate site is vacant except for a canopy structure associated with a temporary hand car wash operation. The Council's Conservation

Officer identifies the significance of the site in its historic relationship with the River Lea and the railway line. The character of buildings reflects the site's industrial past. Officers consider that new development should respect the site's history and surrounds. There are opportunities to maximise enjoyment of the riverside setting and improve links with the town.

- 7.21 Notwithstanding the implications for the loss of employment land, it is regrettable in design terms that development of the site does not include the Magog building and Mill Studios as this would have allowed for a more holistic approach to the redevelopment of Crane Mead. As it is, development of Swans Mill in isolation is frustrated by the narrow site and offers relatively little opportunity to significantly enhance the riverside setting.
- 7.22 In terms of layout the proposal is for 6 separate residential blocks – 3 on each part of the site. The blocks are predominantly oriented widthways with a 20m gap between each block. This helps to improve aspect through the site and gives a feeling of spaciousness, something that is also evident in the courtyards and landscaped gardens of surrounding residential blocks such as Wickhams Wharf. These intervening spaces provide views of the river, a feature which is aided by block 6 being oriented lengthways and being lower (3.5 instead of 4.5 storeys) in relation to the other blocks (4 and 5) on the Swains Mill site. Of course, residents occupying units on the Starsgate site would not benefit from a riverside outlook and Officers consider there is a resultant need to ensure the amenity space in and around these blocks is of high quality. In this respect, there is concern that by optimising the use of the site some of the units would experience a poor outlook along the railway line.
- 7.23 Surface car parking is provided between the blocks on the Swains Mill site with additional parking set against the existing car parking area to Wickhams Wharf. Officers note the comments of the Landscape Officer with regards the 'featureless' parking areas on the Swains Mill site. It is agreed that an appropriate condition would be necessary to ensure the use of high quality permeable surfacing and the use of colours and textures to improve the attractiveness of these areas. This can be conditioned along with full details of hard and soft landscaping. Nevertheless, the development does considerably improve the amenity value of this part of the site with the introduction of a tree lined public footpath along the eastern boundary and an amenity/landscaped area adjacent to block 6. With what limited space is available, this would represent an enhancement of the riverside setting.

3/13/1042/FP

- 7.24 To enhance the riverside setting further, a financial contribution is considered justified to secure improvement works to the adjacent towpath. The towpath forms part of the Lea Valley Walk and the National Cycle Network. The new development would intensify use of the towpath – both by the new residents and by the public due to the proposed new public footpath running along the eastern side of the Swains Mill site and linking with the town. The Canal and River Trust have sought a contribution of £33,900 and Officers would have no objection to this being included as part of any Section 106 agreement.
- 7.25 Officers also note that whilst redevelopment of the wider site would offer even greater opportunities to improve the riverside setting, there should be no reason why the successful businesses occupying the Magog building and Mill Studios can't continue to operate for their respective employment purposes or be incorporated into some form of a wider redevelopment of the site in the future.
- 7.26 Officers note that there is considerable potential to improve the amenity of the vacant Starsgate site, which is currently underutilised and a mass of hardstanding. The proposed car parking and access route on this site is set against the railway line, allowing for an area of planted space between blocks 1 and 2 and partially screening the hard surfaced areas from the public streetscene. As with the Swains Mill site, each of the ground floor flats would benefit from private garden areas while the upper floors would benefit from private balconies. However, the flats that lie above the parking and access route and look directly onto the railway line will be in a poor situation – it is noted that Network Rail would require a trespass proof fence to be erected along this boundary and this would not improve outlook for new residents. A large area of public open space is proposed to the west side of this site – a key benefit – and, whilst not explicitly proposed, an appropriate landscaping scheme could be delivered by condition to allow the underpass (currently overgrown) to be opened up to secure pedestrian/cycle access under Viaduct Road and towards the station.
- 7.27 Officers note that the Council's Landscape Officer has registered concern that the building footprints (of blocks 1 and 2) are close up to Crane Mead. This is of course partially a result of the parking area being located to the rear, which has pushed the residential blocks closer to the road, causing a cramped relationship with the street. This site is viewed as a key thoroughfare to the town centre/Ware railway station and there is a need to open up the underpass under Viaduct Road and extend access to the rest of Crane Mead. The layout of Crane Mead, following the 1998 Development Brief, secured landscaped areas at the edge of the road and a cycleway leading to the

river which currently abruptly ends to the east of the proposed Block 2. Whilst a narrow footpath is proposed to connect to the underpass, this would provide scant amenity benefit and would not create a pleasant thoroughfare. The Landscape Officer has stated that there is a need to continue this cycleway and provide landscaping along the north side of the Starsgate site to create a coherent and attractive streetscene. Officers agree that setting the blocks so close to the streetscene is a poor layout option that undermines the potential benefit of opening up the underpass. In this sense, the development is considered poorly designed and fails to deliver the necessary connectivity and accessibility benefits.

- 7.28 In terms of the scale of the blocks, consideration has been given to the Council's pre application advice, which sought to reduce the height of the buildings so that they respected buildings in the vicinity. Accordingly, the height of the higher blocks (1, 2, 4 and 5) is now broadly comparable to those in the immediate vicinity, such as Wickhams Wharf and lower than some of the blocks in the wider vicinity such as Stewards Place. The lower blocks (3 and 6) are set down to provide building height graduation to the two-storey Crane Mead Business Park or to respect the more sensitive riverside setting. Given their positions on the site of the Swains Mill building, blocks 4 and 5 would be reasonably prominent in Viaduct Road. However, they are separated from Viaduct Road by both Crane Mead itself and by the area of public open space. As such, in Officers view their height and position would provide legibility without appearing unduly prominent.
- 7.29 The design and form of the blocks reflects the Maltings and warehousing buildings that have traditionally characterised this part of Ware. Reference is taken specifically from the Omega Maltings on the opposite side of the river, with the proposed blocks similarly incorporating double pitched, plain gabled roofs and a robust façade. Blocks 1-5 are designed with an undercroft to allow for vehicular access through the built form. This feature is evident at both Wickhams Wharf and Stewards Place and therefore also reflects the character of surrounding buildings. External materials reflect warehouse traditions with combinations of horizontal dark stained weatherboarding and buff coloured stock bricks. High quality materials can be secured through condition. Facades are reasonably broken up by the use of differing materials and the presence of balconies. The Conservation Officer is satisfied that the scale and design of the buildings is typical of the surrounding area and that the overall design would have little or no impact on the adjacent Conservation Area.
- 7.30 Whilst a co-ordinated approach to the redevelopment of the wider site is

preferable in design terms, the design and scale of the individual blocks is broadly acceptable to Officers. However, Officers are not satisfied, on balance, that the development is acceptable in respect of its layout. A poor outlook would be created for some occupiers at the Starsgate site and the Landscape's Officer's comments in respect of the building setbacks are important as they undermine the ability of the development to provide effective connections to the wider area and create a pleasant and attractive streetscene.

- 7.31 The government attaches great importance to the design of the built environment and officers are not satisfied that the development is compliant with Policy ENV1 of the Local Plan and relevant policies within the NPPF.

Affordable Housing

- 7.32 Policy HSG3 of the Local Plan states that affordable housing provision will be expected on sites within the 6 main settlements proposing 15 or more dwellings or over 0.5 hectares. On suitable sites, the inclusion of up to 40% affordable homes will be sought as part of the proposed development of the site. This is consistent with the NPPF at paragraph 50, where it expects local planning authorities to deliver a wide choice of high quality homes, widen opportunities for home ownership and plan for a mix of housing.
- 7.33 Policy HSG4 addresses the suitability of a site to provide affordable housing having regard to the proximity of services and facilities, access to public transport, the economics of provision and the need to achieve a successful housing development and sustainable community.
- 7.34 The provision of affordable housing is a priority for East Herts Council and an identified high level of need in Ware is evidenced in the Housing Needs Survey 2005 and by other indicators. The location of the site on the edge of Ware town centre with a range of community facilities nearby and good access to jobs and public transport is considered suitable for the development of affordable units. The existing residential development within Crane Mead contains affordable housing.
- 7.35 In this instance the Council's Housing Manager has requested that 40% affordable housing be provided as part of the development proposal with a tenure split of 75% rented and 25% shared ownership
- 7.36 The application is for 100% private for sale housing and therefore does not propose any affordable housing. However, in accordance with

3/13/1042/FP

Policy HSG4 and the NPPF at para.173, careful assessment of the viability of the development is required to ensure unnecessary burdens are not put on developers that may make a scheme undeliverable.

- 7.37 In this respect the application is accompanied by a Viability Assessment which balances the value of the existing site and the costs of the development against the development's overall value. The submitted Viability Assessment indicates a deficit of £609,494 - therefore concluding that no affordable housing can be provided.
- 7.38 However, Officers have sought an independent review of the submitted Viability Assessment by the District Valuation Service (DVS). Whilst the DVS largely agree with the submitted Development Costs, (albeit a variation from £500,000 to £400,000 has been applied to Section 106 costs based on Officer advice), they have undertaken their own research into the private market values of the proposed units, concluding that they have been undervalued by the developer. This increase in private sales revenue would amount to £2,799,004 and means the value of the development would exceed the value of the land.
- 7.39 While this is the case, DVS do not consider that 40% affordable housing provision is economically viable. Based on the surplus development value, they recommend that 18 affordable units can be provided or 16% of the total build.
- 7.40 Officers also note that the development assumes a 20% developer's profit from the development which is at the higher end of the industry norm. The DVS have indicated that there is potential for negotiating a lower level of developer profit, particularly given we are currently experiencing an increase in property prices. The DVS have used a figure of £400,000 for Section 106 costs based on earlier Officer advice. However, Officers have calculated that a total contribution would be considerably less than this – totalling £282,271. In light of these two factors Officers consider that there is scope to increase the quantum of affordable housing beyond the 16% provision.
- 7.41 Officers view the delivery of affordable housing as a potential benefit of the development to be balanced against any adverse impacts. Given the need for affordable housing in Ware and the highly accessible location, Officers would expect affordable units to be delivered if it can be demonstrated that it is viable and deliverable. In this instance Officers consider that some form of affordable housing would be deliverable and that this would not compromise the scheme's viability. The applicant has been provided with the DVS Report but has not

provided any indication of a willingness to negotiate on affordable housing delivery. Therefore, in the absence of any provision or commitment from the developer to provide for affordable units, the proposal is contrary to Local Plan Policies HSG3 and HSG4 and guidance contained within the NPPF.

Flood risk and drainage

- 7.42 Local Plan policy ENV19 and Section 10 of the NPPF seek to avoid inappropriate development in areas at risk of flooding. Paragraph 100 states that where development is necessary, flood risk should not be increased elsewhere. Policy ENV21 of the Local Plan advocates Best Management Practices for surface water drainage as advocated by the Environment Agency.
- 7.43 The site is located partly in Flood Zone 2 and partly in Flood Zone 3a. Technical Guidance in the NPPF indicates that a residential use is an appropriate form of development within Flood Zones 1 and 2. The overall aim is to steer new development towards Flood Zone 1. Only where there are no readily available sites within Flood Zones 1 and 2 should the suitability of sites in Flood Zone 3 be considered, taking into account the vulnerability of the land to flood risk and applying the Exception Test if required.
- 7.44 Officers have applied a Sequential Test to this development site and concluded that there are currently no readily available sites that are both 'deliverable' and 'developable'. This is because there are no sites that are of comparable size, are either owned by the applicant or for sale or that are not safeguarded in the Local Plan for another use or subject to the same flood risk constraints.
- 7.45 Given part of the site is in Flood Zone 3a, it is appropriate to apply the Exception Test in accordance with the Technical Guidance and paragraph 102 of the NPPF and to take into account the wider sustainability benefits and the site specific Flood Risk Assessment submitted.
- 7.46 The submitted Flood Risk Assessment assesses the risk to the area from flooding from all sources. The FRA helps to inform whether an exception can be made to allow a 'more vulnerable' residential development to be located in an area of high risk of flooding.
- 7.47 The Environment Agency studied the applicant's FRA and had originally objected to the development. This was because the development would impede flood flow and reduce storage capacity – in direct

3/13/1042/FP

contravention of Policy ENV19 of the Local Plan and Section 10 of the NPPF. The Council's Engineer has also noted that the drainage practices proposed (surface water drainage and permeable surfacing) do not accommodate more sustainable initiatives such as green roofs or swales. Thames Water have not registered any objection, provided the developer makes proper provision for drainage to ground, watercourses or a suitable sewer.

- 7.48 In response to the objection received from the Environment Agency, the applicant's engineers have provided additional information. The Environment Agency has now withdrawn its objection and recommends that the development can proceed subject to detailed conditions. Officers are satisfied therefore that, subject to these conditions and the inclusion of a condition to agree a surface water management plan based on sustainable principles, the development is acceptable with regard to flood risk and drainage.
- 7.49 Notwithstanding the loss of employment land, and having regard to the fact that residential development can be accommodated on the site without significant risk of flooding, Officers consider that there would be wider sustainability benefits in the delivery of 113 residential units that would outweigh flood risk. This has taken into account the absence of other developable and deliverable sites and the fact that not all of the site is located within Flood Zone 3a.
- 7.50 In respect of foul drainage, there are public sewers crossing or close to the development site. Thames Water have raised no objection to the development although they would need to maintain access to these sewers and therefore building works should not come within 3.0m of them. A directive to this effect can be added to any permission granted.
- 7.51 In terms of land contamination, the applicant's contamination report has identifies the need for further intrusive sampling due to the presence of an infilled pond and registered landfill in close proximity to the site. Accordingly, the Council's Environmental Health Officers have recommended that the development can proceed subject to reclamation of the site being carried out in accordance with the contamination report, and the presence of any significant unsuspected contamination being brought to the attention of the Local Planning Authority.

Parking and Access

- 7.52 Policy TR2 states that highway proposals will be assessed against standards set out in Hertfordshire County Council's Roads in Hertfordshire Design Guide, 2001 and Policy TR7 states that car

3/13/1042/FP

parking provision will be assessed in accordance with the District Council's car parking standards.

- 7.53 The application is supported by a Transport Statement which demonstrates that the existing junction with Viaduct Road functions well and can accommodate the traffic associated with the new development. Vehicular access to both sites would be provided directly via Crane Mead. Visibility splays would be provided at both access points. The internal access onto the Swains Mill site would run along the site's western boundary with turning space provided via two separate parking areas. The internal access road runs along the southern flank of the Starsgate site with parking against the southern boundary. The plans indicate sufficient turning space for emergency and refuse vehicles on both sites.
- 7.54 An existing speed table will be relocated to the Swains Mill site access. This will reduce traffic speeds on Crane Mead on approach to the development and provide a safe crossing point for pedestrians. Pedestrian access would also be improved as a result of a dedicated footpath along the east side of the Swains Mill site and the introduction of public open space at the west side of the Starsgate site. The improvements to the towpath mentioned earlier in this report would also encourage use of this as a pedestrian route and cycleway.
- 7.55 The introduction of a pedestrian route under Viaduct Road is in keeping with the general aspirations of Policy WA7 in the Local Plan. The improved connectivity benefits of this are noted by Officers although the details and future maintenance of this link would need to be agreed by condition if approval were forthcoming. However, the limitations of this potential accessibility improvement have already been highlighted in this report in respect of the absence of an attractive and well landscaped cycleway along the north side of the Starsgate site. This not only affects the enjoyment of this streetscene but undermines the ability of the site to connect to the wider area effectively.
- 7.56 In terms of car parking, the development proposes 114 spaces for the 113 flats – 56 on the Swains Mill site and 58 on the Starsgate site. Maximum car parking provision based on EHDC parking standards would be 174 spaces. However, based on the sustainable location and public transport alternatives in the vicinity, a reduction to 114 spaces providing an effective parking ratio of 1:1 is considered acceptable. County Highways are also requesting that contribution of £55,970 towards sustainable transport is provided. A key objective of the NPPF is to promote sustainable transport and Officers consider that this contribution is reasonable and justified to promote alternative modes of travel to and from the development although it is just as important to

3/13/1042/FP

secure physical improvements as well as contributions.

- 7.57 In terms of cycle parking provision the development would deliver 146 covered and secure spaces spread amongst the 6 blocks. This is in excess of the Council's cycle parking standards and is considered to comply with Local Plan policy TR14.
- 7.58 In addition to sustainable transport contributions, County Highways' recommendation of approval is subject to the inclusion of conditions relating to details of access, junction and internal road layouts, hard surfacing and a construction management plan. Officers consider that these are reasonably necessary and related to the development. Overall, Officers are content that the proposal is acceptable in terms of highway safety, capacity and parking provision.

Neighbour Amenity

- 7.59 Policy ENV1 of the Local Plan requires development proposals to respect the amenity of occupiers of neighbouring buildings and those of future occupants and ensure their environments are not harmed by noise and disturbance or by inadequate daylight, sunlight or privacy or by overshadowing.
- 7.60 In terms of future occupiers, Officers are satisfied that most of the new dwellings would be well appointed, reasonably spacious and provide a good standard of indoor and outdoor amenity space. However, the outlook to some of the units on the Starsgate site is poor with little potential for improvement with soft landscaping. Refuse storage is discretely included.
- 7.61 The application is accompanied by a Noise Assessment which concludes that the main noise source for new residents would be from Viaduct Road, rather than from any nearby employment uses, which actually do not generate significant levels of noise. The Council's Environmental Health Officer agrees with this assessment and has recommended that the noise control measures, principally comprising particular glazing specifications to some of the units as detailed in the noise assessment, are conditioned as part of any approval granted.
- 7.62 Officers note that some concern has been raised about the potential overlooking from Block 3 towards Dixons Court, opposite the road. However, the distance retained between these two blocks is in excess of 30m, considerably more than the 20m maintained between each new block and sufficient to avoid any overlooking impact or loss of privacy. Closer relationships are evident between the Magog building and the east

3/13/1042/FP

elevation of block 5 – adequately mitigated for by the dual aspect units and lower height of the Magog building - and between the west elevation of block 6 and Wickham's Wharf where similar dual aspect, the lower height of block 6 and significant tree planting would all combine to protect residential amenity.

- 7.63 Officers also acknowledge the impact that the proposals will have with regard to generating noise on the site during the construction phase. Of course, whilst it can be intrusive, construction phase noise is transient and would not ultimately be harmful in the longer term.

Financial Obligations

- 7.64 Herts County Council have requested financial contributions related to Primary, Secondary and Nursery Education, Childcare facilities, Youth facilities, and Libraries. These are considered to be necessary and justified in accordance with the CIL Regulations 2010. As mentioned above, County Highways have requested a contribution towards sustainable transport measures and the Canal and River Trust have requested a contribution towards towpath improvement works. Officers regard these to be justified and fairly related in scale and kind to the development.
- 7.65 Contributions will also be required towards Parks and Gardens and Children's Play Facilities. Evidence indicates that existing provision of Parks and Gardens is below the minimum required provision in Ware and Officers consider there will be additional demand to use these facilities should the development proceed. There will also be additional demand for outdoor sport and recreation facilities but evidence shows that Ware is currently well served by existing facilities at both Wodsen Park Sports Centre and Presdales Recreation Ground. Wodsen Park Sports Centre has recently used Section 106 monies to deliver additional Astro turf football pitches but at the current time the Council's Leisure Services Manager is not aware of any specific proposals to which additional Section 106 monies could be directed. As such, the Council would not request a contribution towards Outdoor Sports.
- 7.66 In terms of children's play facilities, it is acknowledged that the proposal includes a number of 1 bed flats which are unlikely to accommodate children. This contribution figure of £7,786 has therefore been calculated only the basis of the number of 2 and 3 bed units.
- 7.67 The contributions sought – totalling £282,271 - have been presented to the applicant. Officers are yet to receive a clear indication as to whether the applicant is willing to enter into a Section 106 agreement to

3/13/1042/FP

commit to these obligations in the event that planning permission is granted. Whilst most obligations are not in dispute, the applicant has specifically sought to question the Primary and Secondary Education obligations sought by the County Council.

- 7.68 In the absence of any agreement, Officers consider that those financial obligations required to make the development acceptable cannot be guaranteed if the development were to be granted planning permission. Accordingly, a reason for refusal is also included on this basis.

Other matters

- 7.69 An Ecological Assessment has been submitted with the application indicating that detailed ecological work has been undertaken. The site itself is not subject to any statutory or non statutory nature conservation designation and much of the habitats at the site are of negligible ecological value. No objections have been received from Herts Biological Records Centre or Natural England, subject to conditions controlling site clearance and lighting provision and requiring the provision of site landscaping and opportunities to enhance biodiversity. Officers consider that in the event of planning approval being granted these conditions can reasonably be included and note that they reflect the recommendations of the submitted Ecology Report.
- 7.70 Officers note that Network Rail raise no objection to the application subject to a condition requiring the provision of a trespass proof fence adjacent to the railway line boundary. They also recommend the provision of a barrier or high kerbing to prevent vehicles rolling onto the railway line. Considering the raised levels adjacent to the railway line it would not be possible for vehicles to roll onto the track from the Starsgate site. However, Officers agree that in the event of planning permission being granted a trespass proof fence could be required and the details agreed through planning condition.
- 7.71 It is noted that the County Council's Archaeologist has recommended that a scheme of archaeological investigation be carried out and an appropriate condition could also be included in the event of planning permission being granted

Conclusion and overall balance:

- 7.72 The proposal for 113 flats has been considered in the context of the presumption in favour of sustainable development as contained in the NPPF. In accordance with paragraph 14 of the NPPF, Officers are required to consider whether the adverse impacts of the development

3/13/1042/FP

would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

- 7.73 The proposed development is in a sustainable location and would make a meaningful contribution towards the Council's housing shortfall. There would be some more modest amenity benefits derived from the improvements to the towpath, riverside setting and in the delivery of additional connections to the town and the provision of areas of open space.
- 7.74 However, the development would result in the loss of valuable employment land that continues to house local businesses. In line with paragraph 22 of the NPPF, the applicant has sought to demonstrate that there is no reasonable prospect of the site being used for employment purposes. However, no marketing evidence has been submitted and there has been significant interest in redeveloping the land to provide commercial use in recent years. This land itself is located in a sustainable and highly visible location with good access and parking provision.
- 7.75 Furthermore, the Council's Employment Land Study 2008 and its recent review 2013 do not indicate that this land should be released from its designated employment use – instead they state that the site should be retained and that there is an opportunity for an improved employment offering. This is consistent with a 2012 DTZ Report for East Herts, which recommends employment sites in Hertford and Ware are rejuvenated and adapted, rather than lost. Far from being an oversupply of employment land in Ware, the evidence base suggests that more land is needed.
- 7.76 Accordingly, the proposal does not comply with relevant local or national planning policies with regard to the protection of employment land. In Officers view the proposal would cause significant and demonstrable harm both in the context of this site and in the supply of employment land in general in East Herts. Significant negative weight is attributed to this in the planning balance.
- 7.77 Officers also regard the outlook for some residents of the Starsgate site and the cramped relationship of blocks 1 and 2 with Crane Mead as poor and a failure of the scheme to provide a good quality layout. The position and orientation of blocks 1 and 2 do not allow for the continuation of the existing landscaped cycleway to the north of the Starsgate site. This not only undermines the ability of the development to improve connections to the wider area but fails to deliver an attractive and well landscaped streetscene.

3/13/1042/FP

- 7.78 The Council views the delivery of affordable housing in the district as a priority. The proposal fails to deliver any affordable units, the viability of which has been independently tested and found to be deliverable, to a reduced extent. As such, the proposal does not comply with relevant local or national planning policies in this regard and is viewed by Officers as a significant negative consideration in the overall balance.
- 7.79 Some more modest negative weight is also attributed in amenity terms, both in the failure of the development to comprehensively improve the riverside setting by incorporating the Mill Studio and Magog building into the redevelopment proposal (notwithstanding the employment impacts of this) and in respect of the comments of the Landscape Officer's with regard to the parking areas.
- 7.80 In respect of the financial obligations under Section 106, Officers regard the delivery of these as necessary to make the development acceptable. As Officers have been unable to reach an agreement with the applicant on these, most notably with respect of Primary and Secondary Education contributions, an additional reason for refusal is added in this regard.
- 7.81 Overall, having regard to the balance that needs to be struck, Officers consider that the harm caused by the development would significantly and demonstrably outweigh the benefits and recommend 4 reasons for refusal as set out at the head of this report.